

## HOUSE BILL No. 1388

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 20-2-5-1; IC 20-5-2-2; IC 20-6.1.

**Synopsis:** Noncertificated superintendents. Provides that a superintendent of schools is not required to hold a teacher's or superintendent's license. Repeals a requirement that a county superintendent of schools must have five years of successful teaching experience and hold a license.

**Effective:** July 1, 2002.

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### Turner, Tinch

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January 15, 2002, read first time and referred to Committee on Education.

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Introduced

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## HOUSE BILL No. 1388

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A BILL FOR AN ACT to amend the Indiana Code concerning education.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 20-5-2-2, AS AMENDED BY P.L.286-2001,  
2       SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2002]: Sec. 2. In carrying out the school purposes of each  
4       school corporation, its governing body acting on its behalf shall have  
5       the following specific powers:

6           (1) In the name of the school corporation, to sue and be sued and  
7           to enter into contracts in matters permitted by applicable law.

8           (2) To take charge of, manage, and conduct the educational affairs  
9           of the school corporation and to establish, locate, and provide the  
10          necessary schools, school libraries, other libraries where  
11          permitted by law, other buildings, facilities, property, and  
12          equipment therefor.

13          (2.5) To appropriate from the general fund an amount, not to  
14          exceed the greater of three thousand dollars (\$3,000) per budget  
15          year or one dollar (\$1) per pupil, not to exceed twelve thousand  
16          five hundred dollars (\$12,500), based upon the school  
17          corporation's previous year's average daily membership (as



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defined in IC 21-3-1.6-1.1) for the purpose of promoting the best interests of the school corporation by:

(A) the purchase of meals, decorations, memorabilia, or awards;

(B) provision for expenses incurred in interviewing job applicants; or

(C) developing relations with other governmental units.

(3) To acquire, construct, erect, maintain, hold, and to contract for such construction, erection, or maintenance of such real estate, real estate improvements, or any interest in either, as the governing body deems necessary for school purposes, including but not limited to buildings, parts of buildings, additions to buildings, rooms, gymnasiums, auditoriums, playgrounds, playing and athletic fields, facilities for physical training, buildings for administrative, office, warehouse, repair activities, or housing of school owned buses, landscaping, walks, drives, parking areas, roadways, easements and facilities for power, sewer, water, roadway, access, storm and surface water, drinking water, gas, electricity, other utilities and similar purposes, by purchase, either outright for cash (or under conditional sales or purchases money contracts providing for a retention of a security interest by seller until payment is made or by notes where such contract, security retention, or note is permitted by applicable law), by exchange, by gift, by devise, by eminent domain, by lease with or without option to purchase, or by lease under IC 21-5-10, IC 21-5-11, or IC 21-5-12. To repair, remodel, remove, or demolish any such real estate, real estate improvements, or interest in either, as the governing body deems necessary for school purposes, and to contract therefor. To provide for energy conservation measures through utility energy efficiency programs or under a guaranteed energy savings contract as described in IC 36-1-12.5.

(4) To acquire such personal property or any interest therein as the governing body deems necessary for school purposes, including but not limited to buses, motor vehicles, equipment, apparatus, appliances, books, furniture, and supplies, either by outright purchase for cash, or under conditional sales or purchase money contracts providing for a security interest by the seller until payment is made or by notes where such contract, security, retention, or note is permitted by applicable law, by gift, by devise, by loan, or by lease with or without option to purchase and to repair, remodel, remove, relocate, and demolish such personal property. All purchases and contracts delineated under the powers

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given under subdivision (3) and this subdivision shall be subject solely to applicable law relating to purchases and contracting by municipal corporations in general and to the supervisory control of agencies of the state as provided in section 3 of this chapter.

(5) To sell or exchange any of such real or personal property or interest therein, which in the opinion of the governing body is not necessary for school purposes, in accordance with IC 20-5-5, to demolish or otherwise dispose of such property if, in the opinion of the governing body, it is not necessary for school purposes and is worthless, and to pay the expenses for such demolition or disposition.

(6) To lease any school property for a rental which the governing body deems reasonable or to permit the free use of school property for:

(A) civic or public purposes; or

(B) the operation of a school age child care program for children aged five (5) through fourteen (14) years that operates before or after the school day, or both, and during periods when school is not in session;

if the property is not needed for school purposes. Under this subdivision, the governing body may enter into a long term lease with a nonprofit corporation, community service organization, or other governmental entity, if the corporation, organization, or other governmental entity will use the property to be leased for civic or public purposes or for a school age child care program. However, if the property subject to a long term lease is being paid for from money in the school corporation's debt service fund, then all proceeds from the long term lease shall be deposited in that school corporation's debt service fund so long as the property has not been paid for. The governing body may, at its option, use the procedure specified in IC 36-1-11-10 in leasing property under this subdivision.

(7) To employ, contract for, and discharge superintendents (**who are not required to hold a license under IC 20-6.1-3**), supervisors, principals, teachers, librarians, athletic coaches (whether or not they are otherwise employed by the school corporation and whether or not they are licensed under IC 20-6.1-3), business managers, superintendents of buildings and grounds, janitors, engineers, architects, physicians, dentists, nurses, accountants, teacher aides performing noninstructional duties, educational and other professional consultants, data processing and computer service for school purposes, including

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1 but not limited to the making of schedules, the keeping and  
2 analyzing of grades and other student data, the keeping and  
3 preparing of warrants, payroll, and similar data where approved  
4 by the state board of accounts as provided below, and such other  
5 personnel or services, all as the governing body considers  
6 necessary for school purposes. To fix and pay the salaries and  
7 compensation of such persons and such services. To classify such  
8 persons or services and to adopt schedules of salaries or  
9 compensation. To determine the number of such persons or the  
10 amount of services thus employed or contracted for. To determine  
11 the nature and extent of their duties. The compensation, terms of  
12 employment, and discharge of teachers shall, however, be subject  
13 to and governed by the laws relating to employment, contracting,  
14 compensation, and discharge of teachers. The compensation,  
15 terms of employment, and discharge of bus drivers shall be  
16 subject to and shall be governed by any laws relating to  
17 employment, contracting, compensation, and discharge of bus  
18 drivers. The forms and procedures relating to the use of computer  
19 and data processing equipment in handling the financial affairs of  
20 such school corporation shall be submitted to the state board of  
21 accounts for approval to the end that such services shall be used  
22 by the school corporation when the governing body determines  
23 that it is in the best interests of the school corporation while at the  
24 same time providing reasonable accountability for the funds  
25 expended.

26 (8) Notwithstanding the appropriation limitation in subdivision  
27 (2.5), when the governing body by resolution deems a trip by an  
28 employee of the school corporation or by a member of the  
29 governing body to be in the interest of the school corporation,  
30 including but not limited to attending meetings, conferences, or  
31 examining equipment, buildings, and installation in other areas,  
32 to permit such employee to be absent in connection with such trip  
33 without any loss in pay and to refund to such employee or to such  
34 member ~~his~~ reasonable hotel and board bills and necessary  
35 transportation expenses. To pay teaching personnel for time spent  
36 in sponsoring and working with school related trips or activities.  
37 (9) To transport children to and from school, when in the opinion  
38 of the governing body such transportation is necessary, including  
39 but not limited to considerations for the safety of such children  
40 and without regard to the distance they live from the school, such  
41 transportation to be otherwise in accordance with the laws  
42 applicable thereto.

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(10) To provide a lunch program for a part or all of the students attending the schools of the school corporation, including but not limited to the establishment of kitchens, kitchen facilities, kitchen equipment, lunch rooms, the hiring of the necessary personnel to operate such program, and the purchase of any material and supplies therefor, charging students for the operational costs of such lunch program, fixing the price per meal or per food item. To operate such lunch program as an extracurricular activity, subject to the supervision of the governing body. To participate in any surplus commodity or lunch aid program.

(11) To purchase textbooks, to furnish them without cost or to rent them to students, to participate in any textbook aid program, all in accordance with applicable law.

(12) To accept students transferred from other school corporations and to transfer students to other school corporations in accordance with applicable law.

(13) To levy taxes, to make budgets, to appropriate funds, and to disburse the money of the school corporation in accordance with the laws applicable thereto. To borrow money against current tax collections and otherwise to borrow money, in accordance with IC 20-5-4.

(14) To purchase insurance or to establish and maintain a program of self-insurance relating to the liability of the school corporation or its employees in connection with motor vehicles or property and for any additional coverage to the extent permitted and in accordance with IC 34-13-3-20. To purchase additional insurance or to establish and maintain a program of self-insurance protecting the school corporation and members of the governing body, employees, contractors, or agents of the school corporation from any liability, risk, accident, or loss related to any school property, school contract, school or school related activity, including but not limited to the purchase of insurance or the establishment and maintenance of a self-insurance program protecting such persons against false imprisonment, false arrest, libel, or slander for acts committed in the course of their employment, protecting the school corporation for fire and extended coverage and other casualty risks to the extent of replacement cost, loss of use, and other insurable risks relating to any property owned, leased, or held by the school corporation. To:

(A) participate in a state employee health plan under IC 5-10-8-6.6;

(B) purchase insurance; or

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(C) establish and maintain a program of self-insurance; to benefit school corporation employees, which may include accident, sickness, health, or dental coverage, provided that any plan of self-insurance shall include an aggregate stop-loss provision.

(15) To make all applications, to enter into all contracts, and to sign all documents necessary for the receipt of aid, money, or property from the state government, the federal government, or from any other source.

(16) To defend any member of the governing body or any employee of the school corporation in any suit arising out of the performance of ~~his~~ **the person's** duties for or employment with the school corporation, provided the governing body by resolution determined that such action was taken in good faith. To save any such member or employee harmless from any liability, cost, or damage in connection therewith, including but not limited to the payment of any legal fees, except where such liability, cost, or damage is predicated on or arises out of the bad faith of such member or employee, or is a claim or judgment based on ~~his~~ malfeasance in office or employment.

(17) To prepare, make, enforce, amend, or repeal rules, regulations, and procedures for the government and management of the schools, property, facilities, and activities of the school corporation, its agents, employees, and pupils and for the operation of its governing body, which rules, regulations, and procedures may be designated by any appropriate title such as "policy handbook", "bylaws", or "rules and regulations".

(18) To ratify and approve any action taken by any member of the governing body, any officer of the governing body, or by any employee of the school corporation after such action is taken, if such action could have been approved in advance, and in connection therewith to pay any expense or compensation permitted under IC 20-5-1 through IC 20-5-6 or any other law.

(19) To exercise any other power and make any expenditure in carrying out its general powers and purposes provided in this chapter or in carrying out the powers delineated in this section which is reasonable from a business or educational standpoint in carrying out school purposes of the school corporation, including but not limited to the acquisition of property or the employment or contracting for services, even though such power or expenditure shall not be specifically set out herein. The specific powers set out in this section shall not be construed to limit the

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1 general grant of powers provided in this chapter except where a  
 2 limitation is set out in IC 20-5-1 through IC 20-5-6 by specific  
 3 language or by reference to other law.

4 SECTION 2. IC 20-6.1-1-8 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. ~~Definition,~~  
 6 ~~"Teacher"~~. As used in this article, the term "teacher" means **the**  
 7 **following:**

8 **(1)** A professional person whose position in the school  
 9 corporation requires certain teacher training preparations and  
 10 licensing. The term includes, but is not limited to, any  
 11 ~~superintendent~~, supervisor, principal, attendance officer, teacher,  
 12 or librarian.

13 **(2) A superintendent who holds a license under IC 20-6.1-3.**

14 SECTION 3. IC 20-6.1-4-18 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 18. ~~Superintendent~~  
 16 ~~Contracts~~. Each contract entered into by a governing body and its  
 17 superintendent is subject to the following conditions:

18 **(1) If the superintendent holds a license under IC 20-6.1-3,** the  
 19 basic contract is in the form of the regular teacher's contract.

20 **(2)** The contract is for a term of at least thirty-six (36) months.

21 **(3)** The contract may be altered or rescinded for a new one at any  
 22 time by mutual consent of the governing body and the  
 23 superintendent. This consent must be in writing and must be  
 24 expressed in a manner not inconsistent with sections 18 through  
 25 20 of this chapter.

26 **(4) If the superintendent holds a license under IC 20-6.1-3,** the  
 27 rights of ~~a~~ **the** superintendent as a teacher under any other law are  
 28 not affected.

29 SECTION 4. IC 20-2-5-1 IS REPEALED [EFFECTIVE JULY 1,  
 30 2002].

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